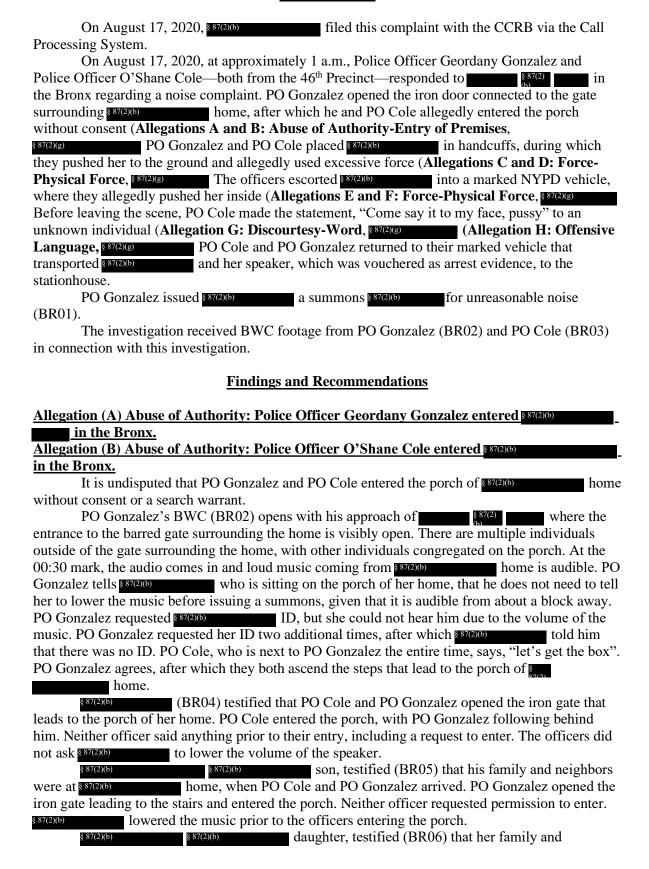
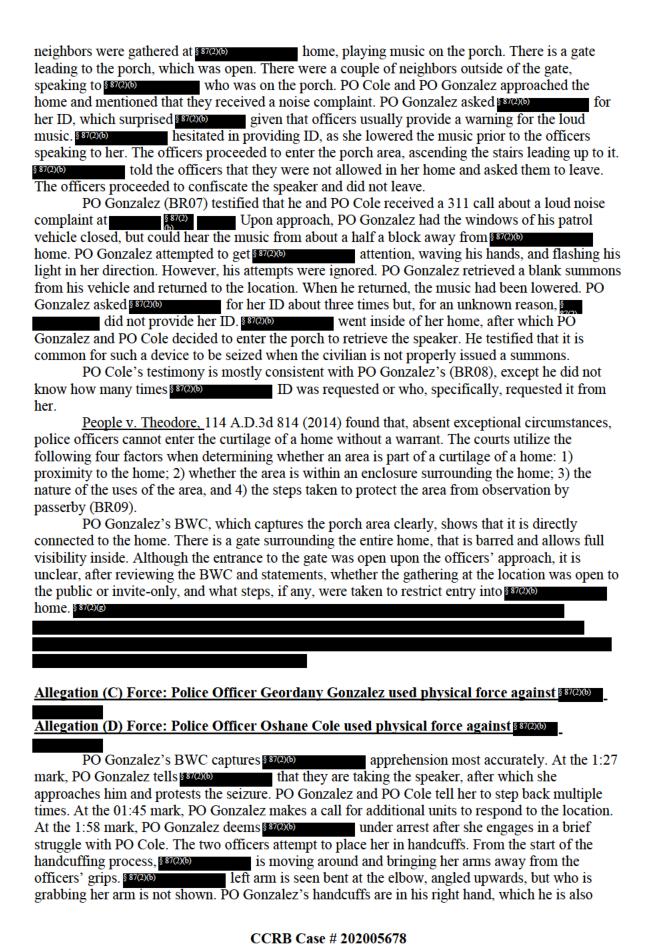
CCRB INVESTIGATIVE RECOMMENDATION

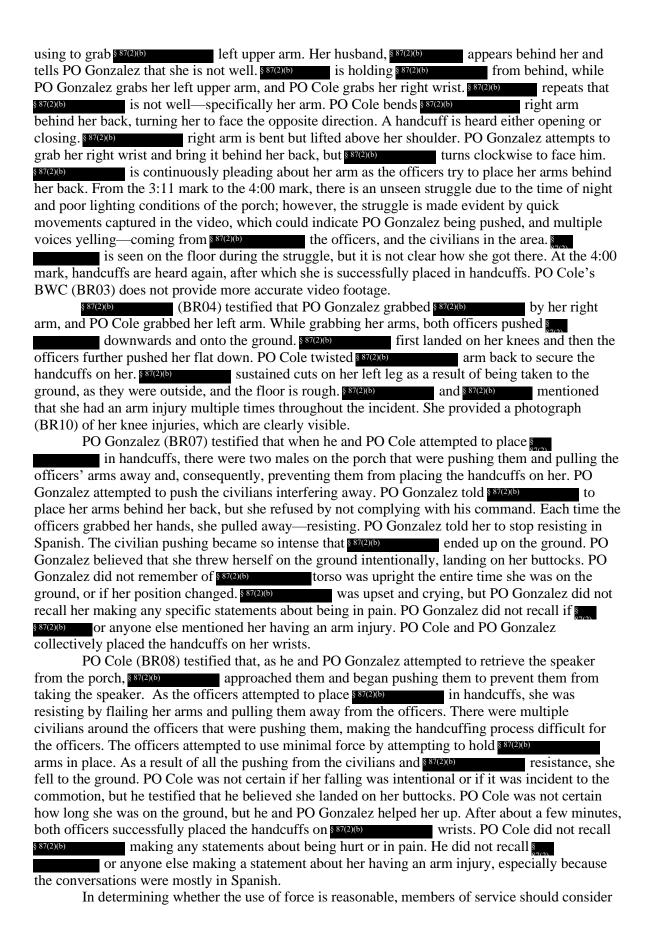
| Investigator: | | Team: | CCRB Case #: | V | Force | <u> </u> | Discourt | | U.S. |
|--|--|----------------------------------|----------------------------|----------|----------|----------|-------------|----------|----------|
| Jessica Russo | | Squad #10 | 202005678 | | Abuse | ⊸ | O.L. | ✓ | Injury |
| | | | | | | | | | |
| Incident Date(s) | | Location of Incident: | | | 18 N | Io. S | OL | P | recinct: |
| Monday, 08/17/2020 1:00 AM | | § 87(2)(b) | | | 5/4 | 1/202 | 2 | | 46 |
| Date/Time CV Reported | | CV Reported At: | How CV Reported | : | Date/Tim | e Rec | eived at CC | CRB | |
| Mon, 08/17/2020 11:59 AM | | CCRB | Call Processing System | | Mon, 08/ | 17/202 | 20 11:59 A | M | |
| Complainant/Victim | Туре | Home Addre | ess | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Witness(es) | | Home Addre | ess | | | | | | |
| ······································ | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Subject Officer(s) | Shield | TaxID | Command | | | | | | |
| POM Geordany Gonzalez | 19400 | 965145 | 046 PCT | | | | | | |
| 2. POM Oshane Cole | 08641 | 963460 | 046 PCT | | | | | | |
| Witness Officer(s) | Shield N | o Tax No | Cmd Name | | | | | | |
| POF Massiel Pena | 04208 | 967643 | 046 PCT | | | | | | |
| 2. POM Valon Rugova | 07286 | 957113 | 046 PCT | | | | | | |
| 3. POM Jason Cruz | 11637 | 941599 | 046 PCT | | | | | | |
| 4. POM Mohamed Ali | 21999 | 964871 | 046 PCT | | | | | | |
| 5. POM Jasen Perez | 10775 | 949470 | 046 PCT | | | | | | |
| 6. POM Jason Santana | 15369 | 951202 | 046 PCT | | | | | | |
| 7. POM Saad Mughal | 19928 | 964179 | 046 PCT | | | | | | |
| 8. POM Kelven Hernandez | 08576 | 969117 | 046 PCT | | | | | | |
| 9. POM Md Haque | 12377 | 952828 | 046 PCT | | | | | | |
| 10. POF April Maxwell | 13941 | 956898 | 046 PCT | | | | | | |
| 11. POF Felicia Diaz | 22852 | 952676 | 046 PCT | | | | | | |
| 12. POF Carolyn Daley | 09308 | 967471 | 046 PCT | | | | | | |
| 13. POM Jacob Newman | 19914 | 933090 | 046 PCT | | | | | | |
| Officer(s) | Allegatio | on | | | Inv | estiga | ator Reco | mme | ndation |
| A . POM Geordany Gonzalez | Abuse: P § 87(2)(b) | olice Officer Geordany in the | Gonzalez entered Bronx. | | | | | | |
| B . POM Oshane Cole | Abuse: Police Officer O'Shane Cole entered in the Bronx. | | | | | | | | |
| C . POM Geordany Gonzalez | Force: Po | olice Officer Geordany (| Gonzalez used physi | cal | | | | | |

| Officer(s) | Allegation | Investigator Recommendation |
|---------------------------|--|-----------------------------|
| D . POM Oshane Cole | Force: Police Officer O'Shane Cole used physical force against § 87(2)(b) | |
| E . POM Geordany Gonzalez | Force: Police Officer Geordany Gonzalez used physical force against § 87(2)(b) | |
| F . POM Oshane Cole | Force: Police Officer O'Shane Cole used physical force against § 87(2)(b) | |
| G . POM Oshane Cole | Discourtesy: Police Officer O'Shane Cole spoke discourteously to an individual. | |
| H . POM Oshane Cole | Off. Language: Police Officer O'Shane Cole made remarks to an individual based upon the gender of an individual. | |

Case Summary







CCRB CTS – Confidential

Page 3

whether the subject is actively resisting custody, the number of subjects in comparison to the number of MOS, as well as the presence of a hostile crowd, among several other factors. <u>Patrol</u> Guide Procedure 221-01 (BR11).

A police officer may use physical force when and to the extent he reasonably believes to be necessary to effect an arrest, prevent the escape from custody, or in self-defense. New York State Penal Law 35.30 (BR16).

A person is guilty of obstructing governmental administration (OGA) when they intentionally obstruct, impair, or prevent the administration of law or other governmental function. New York State Penal Law 195.05 (BR12).

| The video lootage shows that, aside from \$872,00 | mere were munipie omer |
|--|----------------------------------|
| civilians in the porch area and near the officers, while said officers | |
| speaker. § \$7(2)(6) prevented the officers from t | aking the speaker, intentionally |
| obstructing them from addressing the noise complaint call that brou | ight them to the location. From |
| the initiation of restraint, she is shown visibly res | isting by pulling away from the |
| officers. Additionally, both PO Cole and PO Gonzalez expressed th | e active interference the crowd |
| had in placing \$87(2)(6) in handcuffs. Despite the fact that \$87 | (2)(b) and § 87(2)(b) |
| continuously mentioned her arm being unwell and the knee injuries | she sustained during the |
| incident (BR10), § 87(2)(g) | |
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| | |
| Allegation (E) Force: Police Officer Geordany Gonzalez used pl | nysical force against §87(2)(b) |
| | |

PO Gonzalez's BWC (BR02) shows that, at the 04:48 mark, PO Gonzalez and PO Cole are assisting in entering the backseat of a patrol vehicle. PO Gonzalez opens the door to the backseat and guides her inside by placing her right arm into the vehicle, lowering her head as she went further inside, and finally, gently nudging her left arm further inside; PO Cole's arm is seen assisting PO Gonzalez in nudging her left arm. Neither PO Cole nor PO Gonzalez is not seen pushing \$\frac{87(2)(0)}{2}\$ into the patrol vehicle or using any kind of force.

(BR04) testified that as PO Cole and PO Gonzalez escorted her to the patrol vehicle, they threw her into the vehicle by pushing her back.

Allegation (F) Force: Police Officer O'Shane Cole used physical force against

PO Gonzalez (BR07) believed that he may have been the officer who escorted to the patrol vehicle, but he was not certain. He did not mention using physical force to get \$87(2)(6) into the vehicle.

PO Cole testified (BR08) that he and PO Gonzalez escorted (BR08) to their police vehicle, after which he went to retrieve the speaker. He did not mention any force used when helping (SR09) into the vehicle.

the BWC captures PO Gonzalez and PO Cole helping \$87(2)(6) into the patrol vehicle without using force, \$87(2)(6)

Allegation (G) Discourtesy: Police Officer O'Shane Cole spoke discourteously to an individual.

Allegation (H) Offensive Language: Police Officer O'Shane Cole made remarks to an individual based upon the gender of an individual.

PO Cole's BWC (BR03) shows that at the 05:50 mark, PO Cole is going back and forth

with an unseen civilian at a distance, at which point he says, "come say it to my face, pussy". There are at least 10 civilians seen in the area, screaming and shouting.

(BR04) and the other civilians interviewed (BR05, BR06, BR15) did not allege any officer using profanity during the incident.

PO Cole (BR08) testified that he used profanity during the incident but did not remember exactly what he said. After reviewing his BWC (BR03), he acknowledged that he made the statement "come say it to my face, pussy" given the incident was heated, with civilians cursing at the officers. He was attempting to avoid using force by using his voice. There were no other reasons

why PO Cole decided to use profanity during the incident.

The mission of the NYPD is centered around protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. Patrol Guide Procedure 200-02 (BR18).

Uniformed members of service are prohibited from using discourteous or disrespectful remarks regarding another person's ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability. Patrol Guide Procedure 203-10 (BR19).

A uniformed member of service using profanity is found to be permissible where the officer has resorted to such language in the heat of a highly dangerous situation or to serve a law enforcement purpose. Disciplinary Case 2013-10143 (BR20).

The <u>Patrol Guide</u> prohibits police officers' use of discourteous statements. The <u>Disciplinary Case</u> noted above indicates that an officer is allowed to use discourteous statements when involved in a highly dangerous situation and the statement must serve a law enforcement purpose. At the time that PO Cole made a discourteous statement, was already placed in custody, her speaker was seized, and officers began leaving the scene.

| Civilian and Officer CCRB Histories | es |
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| • | § 87(2)(b) |
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- PO Gonzalez has been a member of service for three and this is the first CCRB complaint to which he has been a subject.
- PO Cole has been a member of service for four years. He has been a subject in one other CCRB
 complaints and one allegation, which is still under investigation.

Mediation, Civil, and Criminal Histories

- §87(2)(b) declined to mediate this complaint.
- on June 29, 2021, the Office of the New York City Comptroller confirmed that has not filed a notice of claim regarding this incident (BR17).

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| Squad: | 11 | |
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| Investigator: | Signature | Investigator Jessica Russo Print Title & Name | 02/16/2022 Date |
|---------------|-------------------------|---|-------------------------|
| Squad Leader: | Edwin Pena Signature | IM Edwin Pena Print Title & Name | <u>07/12/21</u> Date |
| Reviewer: | Signature | Print Title & Name | Date |